

REMARKS

I. Status of the Application

Claims 1-13 are presently pending in the application. Claim 1-7, 9-13 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-3, 6, 8-10 stand rejected under 35 U.S.C. §102(b) as anticipated by IAMS biscuits or Nutro Tartar control. Claims 1-4, 6-11 and 13 stand rejected under 35 U.S.C. §102(b) as anticipated by Boyer US Patent No. 5,100,651. Claims 1-6, 8-12 stand rejected under 35 U.S.C. §102(e) as anticipated by Masterman et al. US Patent No. 5,616,315. Claims 1-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Superbone or Rawhide Express in view of Brilliant US Patent No. 3,591,675 and Miskewitz or Masterman and further in view of Boyer.

Applicant has amended the presently pending claims to more clearly define and distinctly characterize Applicant's claimed subject matter. Applicant respectfully requests entry and consideration of the foregoing amendment which is intended to place this case in condition for allowance.

II. The Indefiniteness Rejection

At page 2 paragraph 2 of the present office action, claims 1-7 and 9-13 stand rejected as being ambiguous as requiring a carrier and a therapeutic composition, as being unclear as to the term "activity" and for lacking certain antecedent basis.

In response, applicant has amended the pending claims to remove the ambiguity and clarity concerns raised by the Examiner and to address issues of antecedent basis. Accordingly, applicant respectfully submits that the claims as amended fully meet 35 U.S.C. § 112, second paragraph.

III. Claims 1-3, 6 and 8-10 are Patentable over IAMS Biscuits, Nutro Tartar Control, Boyer, and Masterman

At page 2 paragraph 5 of the present office action, claims 1-3, 6, 8-10 stand rejected under 35 U.S.C. §102(b) as anticipated by IAMS Biscuits or Nutro Tartar Control. The Examiner believes that either IAMS biscuits or Nutro Tartar Control contains all of applicant's claim limitations. Applicant respectfully traverses the Examiner's rejection.

Regarding claim 1, neither IAMS Biscuit nor Nutro Tartar Control teaches applicant's claimed *cationic* antimicrobial substance. Instead, IAMS discloses potassium chloride, zinc oxide, potassium sorbate, copper oxide and potassium iodide none of which is or includes a cationic antimicrobial substance. In addition, neither IAMS Biscuit nor Nutro Tartar Control teach an effective antimicrobial dose of the one or more cationic antimicrobial substances. Instead, IAMS Biscuit clearly teaches that the "crunchy texture of Iams Biscuits will help freshen your dog's breath, clean his teeth and keep his gums healthy". These benefits are due to abrasive action and not due to the use of any antimicrobial agent. Likewise, Nutro Tartar Control clearly teaches that its biscuits through abrasive action scrub away plaque, remove tartar and clean teeth.

Neither IAMS Biscuit nor Nutro Tartar Control teaches the presence of an alkali metal salt in an amount effective to promote solubility of the cationic antimicrobial substance in the saliva. Applicant has demonstrated on a standard rawhide chew the unexpected and advantageous effect of the alkali metal salt in promoting the release of the cationic antimicrobial substance into aqueous media such as saliva. See Example 2 of the specification.

Accordingly, neither IAMS Biscuit nor Nutro Tartar Control fairly teach all of applicant's claim limitations because they do not disclose a cationic antimicrobial substance in

an antimicrobial effective dose nor do they disclose an alkali metal salt in an amount effective to promote solubility of the cationic antimicrobial substance in the saliva.

At page 3 paragraph 1, claims 1-4, 6-11 and 13 stand rejected as being anticipated by Boyer. Applicant respectfully traverses the rejection. Boyer, like IAMS Biscuit and Nutro Tartar Control, do not teach the presence of an alkali metal salt in an amount effective to promote solubility of the cationic antimicrobial substance in the saliva. Accordingly, Boyer does not teach or suggest all of applicant's claim limitations.

At page 3 paragraph 3, claims 1-4, 6-11 and 13 stand rejected as being anticipated by Masterman. Applicant respectfully traverses the rejection. Masterman, like IAMS Biscuit, Nutro Tartar Control and Boyer do not teach the presence of an alkali metal salt in an amount effective to promote solubility of the cationic antimicrobial substance in the saliva. Masterman teaches the claimed antimicrobial substance chlorhexidine gluconate, however, no teaching of the presence of an alkali metal salt in an amount effective to promote solubility of the cationic antimicrobial substance in the saliva is provided. Accordingly, Masterman does not teach or suggest all of applicant's claim limitations.

IV. Claims 1-13 are Patentable over Superbone or Rawhide Express in view of Brilliant and Miskewitz or Masterman and further in view of Boyer

At page 4 paragraph 2 of the present office action, claims 1-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Examiner's combination of Superbone or Rawhide Express in view of Brilliant US Patent No. 3,591,675 and Miskewitz or Masterman and further in view of Boyer. Applicant respectfully traverses the Examiner's rejection of claims 1-13.

The Examiner's combination of references fails to teach or suggest the presence of an alkali metal salt in an amount effective to promote solubility of the cationic antimicrobial substance in the saliva. Applicant has demonstrated on a standard rawhide chew the unexpected and advantageous effect of the alkali metal salt in promoting the release of the cationic antimicrobial substance into aqueous media such as saliva. See Example 2 of the specification. Example 2 demonstrates the unexpected and greatly increased release into aqueous media of the chlorhexidine digluconate antimicrobial substance when used in combination with the alkali metal salt, sodium gluconate. This advantageously allows for greater antimicrobial efficacy of the claimed device when compared with the device excluding the alkali metal salt.


Accordingly, the Examiner's combination of references does not render the claimed invention obvious.

VII. Conclusion

Having addressed all outstanding issues, Applicant respectfully requests reconsideration and allowance of claims 1-13.

Respectfully submitted,

Dated: December 15, 2000


John P. Iwanicki
Reg. No. 34,628
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
617-227-7111